

in the

Supreme Court

of the

United States

October Term, 1979

No. 79-130

JOHN E. BEHNKE,

Appellant,

vs.

THE COMMITTEE ON PROFESSIONAL ETHICS
AND CONDUCT OF THE
IOWA STATE BAR ASSOCIATION,

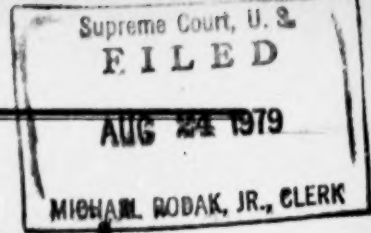
Appellee.

On Appeal from the Supreme Court of Iowa

**APPELLANT'S REPLY TO
MOTION TO DISMISS OR AFFIRM**

HUGO L. BLACK, JR.
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August 23, 1979



**APPELLANT'S REPLY TO
MOTION TO DISMISS OR AFFIRM**

Appellant cannot and does not answer the "Question Presented."

Instead, appellant begs it. Regardless of how unethical it may be to draft a will for a client which names the lawyer beneficially, the Iowa Code Of Professional Responsibility For Lawyers admittedly did not warn that such conduct could result in discipline. Indeed, that code affirmatively indicated otherwise — that "The Ethical Considerations are aspirational in character . . . The Disciplinary Rules, unlike the Ethical Considerations are mandatory in character."

If this Court allows the Iowa Bar to flout due process by suspending a lawyer from practice for three years for conduct the Iowa Bar described as merely "aspirational in character," then it will not be long before the Iowa Bar begins to require this or that maverick Iowa attorney to demonstrate "good moral character" as "a condition to his continued practice of law in Iowa." Witness the insensitivity of the Iowa Bar to due process considerations on page 9 of its brief. There the Iowa Bar incredibly claims the right to single out particular attorneys and require them to demonstrate "good moral character" as a condition to the continued practice of law in Iowa.

The authorities in Salem, Massachusetts, similarly claimed the right to single out particular old hags and required them to demonstrate that they were not witches as a condition of continued life.

Respectfully submitted,

KELLY, BLACK, BLACK,
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By: /s/ Hugo L. Black, Jr.
Hugo L. Black, Jr.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was mailed to LEE H. GAUDINEER, ESQ., 600 Hubbell Building, Des Moines, Iowa 50309, HEDO M. ZACHERLE, ESQ., 1101 Fleming Building, Des Moines, Iowa 50309 and JOHN WERNER, ESQ., Office of Attorney General, State Capitol Building, Des Moines, Iowa 50310, this 23rd day of August, 1979.

/s/ Hugo L. Black, Jr.
Hugo L. Black, Jr.